

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA, GEORGIA

NASHID ALI)
)
Plaintiff,) CIVIL ACTION
) FILE NO.:
vs.)
) JURY DEMANDED
UNITED STATES OF AMERICA)
)
Defendants.)
)

COMPLAINT

COMES NOW PLAINTIFF, NASHID ALI, and brings this action for damages against the Defendant, United States of America as herein described and respectfully as follows:

I. PARTIES AND JURISDICTION

1.

Plaintiff Ali is a resident of DeKalb County, Georgia, residing at 5167 Tara Creek Circle, Ellenwood, Georgia, 30294.

2.

This action arises under the Federal Tort Claims Act, 28 U.S.C.A. § 2671-2680, and this Court has jurisdiction pursuant to 28 U.S.C.A. § 1336(B).

3.

Based on the above, venue lies with this Honorable Court.

II. FACTS

1.

On the 17th day of April, 2019, Plaintiff Ali was working for a company named Postal Fleet Services that contracted with the United States Postal Service to move their mail, and at no time was Plaintiff a direct employee or borrowed servant of the United States Postal Service.

2.

On the 17th day of April, 2019, Plaintiff Nashid Ali, was operating a manual pallet jack, at the United States Postal Service Distribution Warehouse, located at 5686 Fulton Industrial Boulevard, SW, Atlanta, Georgia 30336 in a safe and prudent manner.

3.

At the same time and place, an employee of the United States Postal Service was operating a motorized pallet jack with the knowledge, permission and consent of United States Postal Service.

4.

Defendant's employee was operating the motorized pallet jack in the course and scope of his employment and in the furtherance of the business of Defendant United States Postal Service.

5.

As Plaintiff was pushing a manual pallet jack, the aforementioned United States Postal Service employee who was operating a motorized pallet jack came around a corner in a reckless manner and struck Plaintiff Ali on the left side.

7.

On November 3, 2020, Plaintiff submitted a claim, received by the U.S. Postal Service, on November 18, 2020, for injuries and damages sustained in this incident. Total Damages of \$ 350,000.00 were demanded by the Plaintiff.

8.

The six-month deadline to the United States Postal Service to respond to the claim has expired, and no response has been forthcoming. This action is filed pursuant to 28 U.S.C.A. §2675(a).

III. CLAIMS

A. PLAINTIFF'S CAUSE OF ACTION AGAINST DEFENDANT BALLEW AND THE UNITED STATES POSTAL SERVICE.

1.

Plaintiff Nashid Ali was injured as a direct result of the following reckless and negligent acts, omissions, and conduct on the part of the employee of the United States Postal Service, including, but not limited to:

- a. Failing to keep a proper lookout ahead;

- b. Failing to operate the motorized pallet jack as an ordinary and prudent person would have done under the existing conditions;
- c. Failing to operate the motorized pallet jack with due care and in a manner considerate of the safety and lives of the other person;
- d. Failing to keep the motorized pallet jack under due and proper control;
- e. Operating the motorized pallet jack while distracted;
- f. Such other acts of negligence which will be shown at the trial of this matter and which are copied herein *in extenso*.

The above negligent acts of Defendant and Defendant's employee, proximately caused the collision at issue in this lawsuit and the personal injuries suffered by Plaintiff therefrom.

2.

At all times relevant to the incident, Defendant's employee operated the motorized pallet jack, with the permission of, within the course and scope of employment with, within his authority as an agent of, under the control and supervision of, and in furtherance of the interest of United States Postal Service, an agency of the United States government. Defendant's acts and omissions which proximately caused the collision and subsequent for injuries suffered and sustained by the Plaintiff are imputed to Defendant United States of America under the theories of agency and respondent superior. Therefore, Defendant United States of America

is liable to the Plaintiff for all damages proximately caused by the above described acts of negligence.

3.

As a direct result of the negligence of the Defendant's agent, Plaintiff Nashid Ali will suffer permanent physical impairment and dysfunction, and partial disability. He has suffered lost capacity to work and labor, and will suffer diminished earning capacity. The pain and physical dysfunction have interfered with his activities of daily living, and have caused a loss of enjoyment of life. He has experienced great pain and suffering and will continue to experience pain and suffering in the future. He has incurred substantial medical expenses and will continue to incur medical expenses in the future.

IV. DAMAGES

1.

Plaintiff hereby incorporates by reference the allegation and cause of action plead in the proceeding paragraphs of this Complaint. Plaintiff Nashid Ali avers that as a direct and proximate result of the above described acts of negligence on the part to the Defendant, Plaintiff alleges that he is entitled to damages, including, but not limited to, the following specific items of damages:

- a. Painful injuries caused by the Defendant's negligence;
- b. Physical pain, both past and future;

- c. Emotional suffering and grief, both past and future;
- d. Healthcare expenses, both past and future;
- e. Permanent injury, impairment and partial disability;
- f. Loss of earning capacity;
- g. Costs of this action; and
- h. All other damages and relief allowed under the laws of the State of Georgia to which he may be entitled.

WHEREFORE, Plaintiff prays for judgment to be entered against the above-named defendant for compensatory damages in the amounts to be determined after all of the evidence in this case is presented, with such amounts not to exceed the amount of THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000.00), along with accrued post judgment interest at the legal rates, the cost of this cause, including reasonable expenses, and any and all further damages to which he may be entitled and the Court deems appropriate. PLAINTIFF DEMANDS A JURY TO TRY THESE ISSUES, WHEN JOINED.

This 8th day of June, 2021.

LAW OFFICE OF PERRY D. ELLIS, P.C.,

/s/ Perry D. Ellis

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